

AG Contract No.: KR04-1075TRN  
ADOT ECS File No.: JPA 04-074  
Project No.: CM-PEO-0(008)A  
Project: Purchase Traffic Signal Equipment  
TRACS No.: SS570 01C  
Budget Source Item No.: N/A

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF PEORIA

THIS AGREEMENT is entered into 12th January, 2005, pursuant to Arizona Revised Statutes, § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF PEORIA, ARIZONA acting by and through its MAYOR and CITY COUNCIL (the "CITY").

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 and § 28-334 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State
2. The City is empowered by Arizona Revised Statutes § 48-572 and Peoria City Charter Art. I § 3(15) to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
3. Congress has authorized appropriations for, but not limited to, twelve eligible categories of transportation enhancement activities.
4. Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for their approval.
5. The City, in order to obtain federal funds for the construction of the project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City and FHWA, including administration costs.
6. The interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

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NO. 27312  
Filed with the Secretary of State  
Date Filed: 01/12/05

Janice K. Brewer  
Secretary of State

By: Victor J. Gruenewald

7. The work encompassed in this Agreement is the purchase of traffic signal equipment to complete the traffic signal system. The equipment shall be installed throughout various locations within the City. The estimated costs are as follows:

<b><u>TRACS No. SS570 01C</u></b>	
<b>Total Estimated Cost</b>	<b>\$1,002,500.00</b>
Federal Aid Funds @ 94.3% of \$1,000,000.00 (capped)	\$943,000.00
City Funds @ 5.7% of \$1,000,000.00 (capped)	\$ 57,000.00
Estimated ADOT PE Review Cost	<u>\$ 2,500.00</u>
<b>Estimated Total City Funds</b>	<b>\$ 59,500.00</b>

**THEREFORE**, in consideration of the mutual covenants expressed herein, it is agreed as follows:

## **II. SCOPE OF WORK**

### 1. The State will:

- a. Complete the purchase for work addressed under this Agreement using both Federal Aid and City funds as identified in paragraph I.7
- b. Upon execution of this Agreement, invoice the City \$59,500.00 for its matching participation amount
- c. Enter into a Project Agreement with FHWA on behalf of the City covering the work encompassed in this Agreement and will request the maximum federal funds available. Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any overage.
- d. Should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent or scope of the work called for in this Agreement become necessary, the State shall not be obligated to incur any expenditure in the project.

### 2. The City will:

- a. Upon execution of this Agreement and upon receipt of an invoice, remit \$59,500.00 to the State for City's matching participation identified in paragraph I.7.
- b. The cost of the purchase of Traffic Signal equipment covered by this Agreement is to be borne by FHWA and the City, each in the proportion prescribed and determined by FHWA.
- c. Agree to deposit funds in an amount equal to the difference between the total cost of the work provided for in this Agreement and the amount of federal aid received.
- d. May request the State to be an authorized agent for the City, and all at City's expense, to perform certain work and prepare certain documents required by the FHWA to qualify certain, highway, bridge and railroad grade crossing projects for and to receive federal funds. Such work may consist of, but is not specifically limited to, the review and approval of the City prepared environmental documents, the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities (when specifically authorized by, for and on behalf of the City, and at no cost to the State) and such other related tasks essential to the achievement of the objectives of this Agreement.

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e. Should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent or scope of the work called for in this Agreement become necessary, the City shall be obligated to incur and pay for said increase costs

### **III. MISCELLANEOUS PROVISIONS**

1. The State assumes no financial obligation or liability under this Agreement. The City, in regard to the City's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

2. The cost of the work covered by this Agreement is to be borne by FHWA and the City, each in the proportion prescribed or as fixed and determined by the FHWA as stipulated in this Agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this Agreement and the amount of the federal aid received.

3. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion of said project and related deposits or reimbursement.

4. This Agreement shall become effective upon filing with the Secretary of State

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

6. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds. Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

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10. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue Mail Drop 616E  
Phoenix, AZ 85007  
FAX: (602) 712 7424

City of Peoria  
Public Works Department -  
Engineering Division  
ATTN: City Traffic Engineer  
8401 W. Monroe Street  
Peoria, Arizona 85345

11. Pursuant to Arizona Revised Statutes § 11-952, (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF PEORIA

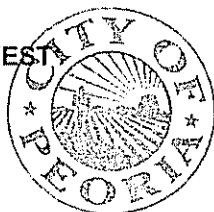
STATE OF ARIZONA

Department of Transportation

By  \_\_\_\_\_  
JOHN KEEGAN  
Mayor

By  \_\_\_\_\_  
SUSAN TELLEZ  
Contract Administrator

ATTEST



By  \_\_\_\_\_  
MARY JO KIEF  
City Clerk

G: 04-074-Peoria-Equipmt Purchase  
Rev 1/FINAL-22Oct2004-IH

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# City of Peoria

8401 West Monroe Street, Peoria, Arizona 85345

## CERTIFICATE OF RECORDING OFFICER

STATE OF ARIZONA       )  
                                  ) ss.  
COUNTY OF MARICOPA )

I, the undersigned, Mary Jo Kief, being the duly appointed, qualified and acting City Clerk of Peoria, Maricopa County, Arizona, do hereby certify that the attached document, Resolution No. 04-281, passed and adopted by the Mayor and Council at the regular meeting of December 14, 2004, is a true and correct copy of the original Resolution No. 04-281 on file and of record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of said City of Peoria this 20<sup>th</sup> day of December, 2004.



  
Mary Jo Kief, City Clerk

RESOLUTION NO. 04-281

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA, ADOPTING A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA FOR ACQUISITION OF FEDERAL FUNDS FOR THE USE AND BENEFIT OF THE CITY TO PURCHASE AND IMPLEMENT THE CITY WIDE TRAFFIC SIGNAL SYSTEM AND INTELLIGENT TRANSPORTATION SYSTEMS EQUIPMENT.

**WHEREAS**, the City desires to enter into an intergovernmental agreement with the State of Arizona for the acquisition of federal funds a total of \$1,000,000 (\$943,000 Federal funds, \$57,000 City funds) for the use and benefit of the City; and

**WHEREAS**, the City is willing in order to obtain such federal funds for the implementation of a City Wide Traffic Signal System and Intelligent Transportation System (ITS) equipment; and

**WHEREAS**, by the City entering into the intergovernmental agreement with the State of Arizona, the public interest will best be served.

**THEREFORE, BE IT RESOLVED** that the Mayor and City Council of the City of Peoria, Arizona approves and adopts this Resolution to enter into an intergovernmental agreement with the State of Arizona for the acquisition of federal funds for the implementation of a City Wide Traffic Signal System and ITS equipment.

**PASSED AND ADOPTED** by the Mayor and City Council of the City of Peoria, Arizona this 14<sup>th</sup> day of December, 2004.

ATTEST:



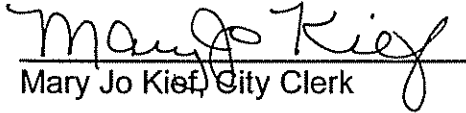
  
\_\_\_\_\_  
John C. Keegan, Mayor

  
\_\_\_\_\_  
Mary Jo Kiel, City Clerk

**CERTIFICATION**

**I HEREBY CERTIFY** that the foregoing Resolution Number 04-281 was duly passed and adopted by the Mayor and Council of the City of Peoria, Arizona, at a regular meeting held on the 14<sup>th</sup> day of December, 2004, and that a quorum was present at the meeting.



  
Mary Jo Kief, City Clerk

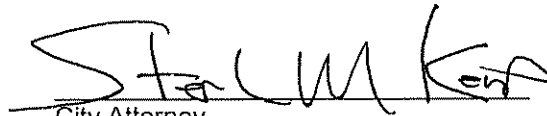
**APPROVED AS TO FORM:**

  
Stephen M. Kemp, City Attorney

APPROVAL OF THE CITY OF PEORIA ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF PEORIA, an agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement

DATED this 15th day of December, 2004.

  
City Attorney





OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TERRY GODDARD  
ATTORNEY GENERAL

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8855

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR04-1075TRN (**JPA 04-074**), an Agreement between public agencies (i.e., The State of Arizona and The City of Peoria), has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: January 4, 2005

TERRY GODDARD  
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis", written over a horizontal line.

Susan E. Davis  
Assistant Attorney General  
Transportation Section